

Department of Defense

§ 9901.332

other Federal agencies, and any other relevant factors.

(b) The Secretary may determine the effective date of newly set or adjusted band rate ranges. Established rate ranges will be reviewed for possible adjustment at least annually.

(c) The Secretary may establish different rate ranges and provide different rate range adjustments for different pay bands.

(d) The Secretary may adjust the minimum and maximum rates of a pay band by different percentages.

§ 9901.323 Eligibility for pay increase associated with a rate range adjustment.

(a) Employees with a current rating of record above “unacceptable” and employees who do not have a current rating of record for the most recently completed appraisal period will receive a percentage increase in basic pay equal to the percentage by which the minimum of their rate range is increased. This section does not apply to employees receiving a retained rate under § 9901.355.

(b) Employees with a current rating of record of “unacceptable” will not receive a pay increase under this section.

LOCAL MARKET SUPPLEMENTS

§ 9901.331 General.

The basic pay ranges established under §§ 9901.321 through 9901.323 may be supplemented in appropriate circumstances by local market supplements, as described in §§ 9901.332, 9901.333, and 9901.334. These supplements are expressed as a percentage of basic pay and are set and adjusted as described in § 9901.333.

§ 9901.332 Local market supplements.

(a) The Secretary may establish local market supplements that apply in specified local market areas whose boundaries are set at the Secretary’s sole and exclusive discretion, subject to paragraph (b) of this section and § 9901.105(d)(4). Local market supplements apply to employees whose official duty station is located in the given local market area. The Secretary may establish standard or targeted local market supplements.

(b)(1) The establishment or modification of geographic area boundaries for standard local market supplements by the Secretary will be effected by regulations which, notwithstanding 5 U.S.C. 553(a)(2), will be promulgated in accordance with the notice and comment requirements of 5 U.S.C. 553. As provided by the non-waived provisions of 5 U.S.C. 5304(f)(2) (modified here to apply to DoD regulations issued under the authority of this paragraph), judicial review of any such regulation is limited to whether or not it was promulgated in accordance with such requirements.

(2) Notwithstanding paragraph (b)(1) of this section, the Secretary’s establishment of a standard local market area boundary or boundaries identical to those used for locality pay areas established under 5 U.S.C. 5304 does not require separate DoD regulations.

(c) Local market supplements are considered basic pay for only the following purposes:

(1) Retirement deductions, contributions, and benefits under 5 U.S.C. chapter 83 or 84;

(2) Life insurance premiums and benefits under 5 U.S.C. chapter 87;

(3) Premium pay under 5 U.S.C. chapter 55, subchapter V, or similar payments under other legal authority, including this subpart;

(4) Severance pay under 5 U.S.C. 5595;

(5) Cost-of-living allowances and post differentials under 5 U.S.C. 5941;

(6) Overseas allowances and differentials under 5 U.S.C. chapter 59, subchapter III, to the extent authorized by the Department of State;

(7) Recruitment, relocation, and retention incentives, supervisory differentials, and extended assignment incentives under 5 U.S.C. chapter 57, subchapter IV, and 5 CFR part 575;

(8) Lump-sum payments for accumulated and accrued annual leave under 5 CFR 550, subpart L;

(9) Determining the rate of basic pay upon conversion to the NSPS pay system as provided in § 9901.373(b);

(10) Other payments and adjustments authorized under this subpart as specified by implementing issuances;